

REMARKS

Applicants have carefully reviewed the Application in light of the Office Action dated March 14, 2005. Claims 1-25 are pending and stand rejected. For at least the reasons provided below, Applicants respectfully traverse these rejections and the assertions and holdings therein and submit that the current claims are allowable over the current rejections. Accordingly, Applicants respectfully request reconsideration and favorable action in this case.

Section 112 Rejections

The Office Action rejects Claims 4, 12, and 20 under 35 U.S.C. § 112, second paragraph, as being indefinite failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. In particular, the Office Action asserts that the use of the term *module* “is indefinite because the specification does not clearly redefined the term.” Even though Applicants believe that the term as claimed is definite, Applicants have amended Claims 4, 12, and 20 to recite *module card*, which Applicants submit is analogous to *module*.

Section 101 Rejections

The Office Action rejects Claims 9-16 under 35 U.S.C. § 101 because the claimed invention is allegedly directed to non-statutory subject matter. Applicants respectfully traverse this rejection.

The patent laws define patentable subject matter as “any new and useful process, machine, manufacture or composition of matter, or any new and useful improvement thereto.” See 35 U.S.C. § 101. When an abstract idea is reduced to a practical application, the abstract idea no longer stands alone if the practical application of the abstract idea produces a useful, concrete and tangible result. This then satisfies the requirements of 35 U.S.C. § 101. *See In re Alappat*, 33 F.3d 1526, 31 U.S.P.Q. 2d 1545, 1558 (Fed. Cir. 1994); *see also State Street Bank & Trust Co. v. Signature Financial Group, Inc.*, 47 U.S.P.Q. 2d 1596, 1601-02 (Fed. Cir. 1998) and www.uspto.gov/web/menu/pbmethod/trangmaterials.ppt. While an abstract idea by itself may not satisfy the requirements of 35 U.S.C. § 101, an abstract idea when practically applied to produce a useful, concrete, and tangible result satisfies 35 U.S.C. § 101. *See AT&T Corp. v.*

Excel Comm. Inc., 172 F.3d 1352, 1357, 50 U.S.P.Q. 1447, 1452 (Fed. Cir. 1999) (stating that as technology progressed, the CCPA overturned some of the earlier limiting principles regarding § 101 and announced more expansive principles formulated with computer technology in mind); *see also In re Musgrave*, 431 F.2d 882, 167 U.S.P.Q. 280 (CCPA 1970) (cited by the Federal Circuit in *AT&T Corp.*, 172 F.3d at 1356). Thus, producing a useful, concrete, and tangible result is the key to patentability according to *State Street* and other applicable case law.¹

Applicants respectfully submit that, for example, Claim 9 produces a useful, concrete, and tangible result. Claims 9 recites "Software for monitoring hardware information associated with a plurality of distinct network devices in an enterprise system." Therefore, the claims produce a useful, concrete, and tangible result. Accordingly, network administration is one practical application of the present claims. As such, the aspects claimed in Claims 9-16 are not merely abstract ideas as suggested by the Examiner.

For at least the reasons discussed above in regard to Claim 9, Applicants respectfully request that Examiner's rejection of Claims 9-16 under 35 U.S.C. § 101 be withdrawn.

Section 102 Rejections

The Office Action rejects Claims 1-7, 9-15, 17-23, and 25 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Publication No. 2003/0200473 ("*Fung*"). However, Applicants submit that *Fung* merely teaches locally managing power by placing equipment in a power saving mode or a standby mode based on load and QoS and, thus, fails to teach or suggest various aspects of the present claims.

For example, independent Claim 1 recites, in part, "remotely retrieving real-time hardware information associated with a particular one of the network devices based on one of the location directives, the hardware information including information of one or more hardware characteristics." The Office Action asserts that hardware characteristics are retrieved from the server modules 54 and, thus, teaches the identified prior limitation. But activities of the server modules 54 in the Integrated Server System (ISS) are merely monitored *by other modules that*

¹ "Only when the claim is devoid of any limitation to a practical application in the technological arts should it be rejected under 35 U.S.C. 101." (M.P.E.P. § 2106). Moreover, it is settled law that a method or process remains statutory even if some or all of the steps therein can be performed in the human mind, with the aid of the human mind, or because it may be necessary for one performing the method or process to think. See *In re Musgrave*, 431 F.2d at 893, 167 U.S.P.Q. at 289.

are resident in the ISS. See *Fung*, 5:[0050]. More specifically, *Fung* teaches that the management modules 53 monitor and manage the related server modules 54. See *Fung*, 5:[0050]. In fact, each ISS as disclosed in *Fung* includes at least one management module 53. See *Id.*, 8:[0076]. While monitoring the load and QoS requirement, the management modules 53 may power down equipment or place equipment in a power or energy saving mode. See *id.*, 5:[0049]. As a result, the management modules 53 conserve power and prolongs the effective service life of equipment. *Id.* While *Fung* does disclose that the ISS may be distributed, each ISS is logically a single server. See *Id.*, 6:[0064]. In other words, *Fung* merely teaches management modules 53 that manage power consumption by monitoring the single server. Thus, *Fung* fails to teach or suggest remotely monitoring hardware characteristics of one of a plurality of distinct network devices. Moreover, there is no indication that *Fung* teaches or suggests flexible configuration files as further described in Claim 1.² Accordingly, Applicants respectfully request reconsideration and allowance of Claim 1.

Independent Claims 9, 17, and 25 include certain aspects analogous to Claim 1 discussed above. Therefore, these claims are allowable for reasons analogous to those discussed above in connection with Claim 1. Accordingly, Applicants respectfully request reconsideration and allowance of Claims 1, 9, 17, and 25, as well as all claims depending therefrom.

Section 103 Rejections

Claims 8, 16, and 24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Fung* in view of U.S. Patent No. 6,642,946 (“*Janes*”). Each of these depend from one of independent Claims 1, 9, and 17. As discussed above, independent Claims 1, 9, and 17 are allowable over *Fung*. The Office Action fails to cite or discuss any teaching or suggestion in *Janes* involving the missing elements discussed above. Accordingly, Applicants respectfully request that the Examiner produce such citations or discussions. Regardless, Applicants submit Claims 8, 16, and 24 are allowable at least because they depend from one of Claims 1, 9, and 17 shown above to be allowable over *Fung*. Thus, Applicants respectfully request that these rejections be withdrawn.

² *Fung* clearly fails to teach or suggest “invoking a flexible configuration file, the flexible configuration file comprising a plurality of location directives, each directive associated with a Management Information Base (MIB) parameter for one of the network devices,” as recited in Claim 1.

CONCLUSION

Applicants have now made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicants respectfully request full allowance of all Claims. In addition, Applicants have included an **Information Disclosure Statement** identifying references cited in correspondence from a foreign patent office.

If the present application is not allowed and/or if one or more of the rejections is maintained, Applicants hereby request a telephone conference with the Examiner and further request that the Examiner contact the undersigned attorney to schedule the telephone conference.

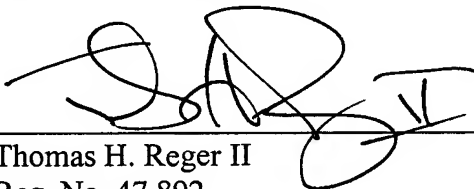
Please note that Applicants plan to file a Revocation and New Power of Attorney – the undersigned hereby files this Response as allowed under M.P.E.P. § 405.

No other fees are believed to be due. However, please apply any deficiencies or any other required fees or any credits to deposit account 06-1050, referencing the attorney docket number shown above.

Respectfully submitted,

Date: _____

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